

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

No. 4:06-CR-39-2-F

UNITED STATES OF AMERICA

v.

LADERICK DEVON PITTMAN,
Defendant.

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O R D E R

This matter is before the court on Laderick Devon Pittman's Motion Application in the Nature of a Request to Reopen a Judgment," [DE-59] purportedly filed under Rule 60(b), Fed. R. Civ. P. An earlier motion [DE-52], pursuant to 28 U.S.C. § 2255 seeking the same relief was denied, as both untimely and as substantively meritless by order of March 31, 2010. *See* [DE-54].

The fact that Pittman now seeks relief pursuant to Rule 60(b) rather than § 2255 does not assist him. Not only was Pittman's § 2255 motion untimely, but it failed to seek relief that could be afforded by such a motion. Pittman seeks reconsideration of the earlier denial of his claim "of the District Court error in applying U.S.S.G. § 2K2.1(b)(6), when the firearm was not connected to another felony offense." Motion [DE-59], p. 4. As the understated explained in the order of March 31, 2010 [DE-54]:

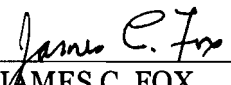
[t]hat issue would have had to be raised on appeal. However, in pleading guilty, Pittman waived both his right to appeal his sentence, including "any issues that relate to the establishment of the advisory Guideline range," and to bring a motion for post-conviction relief, including one under § 2255. *See* Memorandum of Plea Agreement [DE-21], at ¶ 2(c).

Order [DE-54], p. 2.

Because Pittman executed a valid Plea Agreement [DE-21] in which he waived direct appeal or collateral review of the issue he again raises before the court, his Motion to Reopen a Judgment [DE-59] is DENIED.

SO ORDERED.

This, the 27th day of December, 2011.



JAMES C. FOX
Senior United States District Judge